

Health, Social Care and Sport Committee
Tuesday, 10 March 2026
11th Meeting, 2026 (Session 6)

Tobacco and Vapes Bill Supplementary LCM-S6-51b - Note by the Clerk

Background

1. At today's meeting, the Committee will be holding an evidence session with the Minister for Public Health and Women's Health as part of its consideration of the Tobacco and Vapes Bill supplementary [LCM-S6-51b](#).
2. Prior to considering this and other previous LCMs related to the Tobacco and Vapes Bill, the Health, Social Care and Sport Committee took evidence on the public health impact of vaping at its [meeting on 14 November 2023](#).
3. A Tobacco and Vapes Bill was originally introduced in the House of Commons by the Conservative UK Government at the time on 20 March 2024.
4. A Legislative Consent Memorandum related to this Bill was lodged on 2 April 2024 by Neil Gray, Cabinet Secretary for Health and Social Care, under Rule 9B.3.1(a) of the Parliament's standing orders, and was supported by Jenni Minto, Minister for Public Health and Women's Health. The Health, Social Care and Sport Committee was designated as the lead committee for consideration of the LCM.
5. At its meeting on [21 May 2024](#), the Committee took evidence on the LCM from the following stakeholders:
 - Scottish Grocers Federation
 - UK Vaping Industry Association
 - ASH Scotland
 - Public Health Scotland
6. At the dissolution of the 2019-2024 UK Parliament, the Bill fell on 30 May 2024. On this basis, the Committee subsequently decided to take no further action in relation to its scrutiny of the LCM.
7. Following the UK General Election on 4 July 2024, the newly elected UK Labour Government subsequently introduced a modified version of the [Tobacco and Vapes Bill in the House of Commons on 5 November 2024](#).
8. On 21 November, a Legislative Consent Memorandum related to the reintroduced Bill was lodged by Neil Gray, Cabinet Secretary for Health and Social Care, under Rule 9B.3.1(a) of the Parliament's standing orders, and was supported by Jenni Minto, Minister for Public Health and Women's Health.

9. The Health, Social Care and Sport Committee was designated as the lead committee for [consideration of the new LCM](#) and held an evidence session with the Minister for Public Health and Women's Health on [17 December 2024](#).
10. In preparation for considering the LCM, the Committee wrote to those stakeholders from whom it previously took evidence on 21 May 2024, inviting them to share their views on the reintroduced Tobacco and Vapes Bill and the associated LCM. Links to their respective responses are provided below:
 - [ASH Scotland](#)
 - [Public Health Scotland](#)
 - [Scottish Grocers' Federation](#)
 - [UK Vaping Industry Association](#)
11. On 18 March 2025, the UK Government tabled amendments NC11, 81 and 64. Amendment NC11 inserts a new clause into the Bill which extends only to Scotland and was not covered by the original LCM-S6-51, therefore triggering the need for supplementary LCM-S6-51a.
12. The Committee published its [report on both LCM-S6-51 and LCM-S6-51a](#) on 12 May 2025, in which it recommended that the motion be agreed to.
13. On 17 February 2026, further amendments to the Bill were tabled in the UK Parliament which extend to Scotland.
14. A further [supplementary LCM-S6-51b](#) was subsequently lodged in the Scottish Parliament on 27 February 2026.

Consultation on the Bill

15. To inform the previous version of the Bill, a four nations consultation on [Creating a Smoke Free Generation and Tackling Youth Vaping](#) was held in 2023. The consultation built on recommendations from the independent Khan review in 2022, which set out a set of recommendations to tackle smoking rates and youth vaping in the UK.
16. This consultation received nearly 28,000 responses from individuals and organisations across the UK. A joint government response was published on [29 January 2024](#).
17. There was no further consultation on the reintroduced version of the Bill.
18. Due to the tight timescales involved with the amendments and drafting, neither the UK nor the Scottish Government consulted formally on the amendments that triggered supplementary LCM-S6-51b.

19. The Health, Social Care and Sport Committee similarly did not have time to issue a call for views given the reporting deadlines and existing work programme commitments. However, the Committee has previously taken extensive evidence on the original LCM and subsequent supplementary LCM-S6-51a as outlined above.

Content of LCM-S6-51b

20. As set out in supplementary LCM-S6-51b, the Scottish Government recommends consent to amendments to the Tobacco and Vapes Bill related to the following matters:

- Filters (100, 102, 122, 128, 135, 136, 137, 139, 140, 141, 143, 146, 188 and 191)
- Advertising for Public Health (166)
- Technology in Devices (130 and 132)
- Intermediary Liability for Internet Service Providers (165).

21. The UK Government agrees that an LCM is required for these amendments, with the exception of amendment 165 which it considers relates to a reserved matter. Although the UK Government position is that the amendment is reserved under the 'internet services' reservation in schedule 5 of the Scotland Act 1998, the view of the Scottish Government is that the amendment has a devolved purpose insofar as it applies to devolved offences and simply serves to identify who is liable and who is not liable for prosecution, and that the exceptions limit the scope of the offences and do not have a separate and distinct purpose from the offences themselves.

22. The Bill as originally introduced did not cover filters, therefore various amendments are made to bring filters into the scope of the Bill. The UK-wide amendments on filters are intended to ensure that the legislation is as comprehensive and future-proof as possible. The supplementary LCM describes the evidence base on the harms of these products as "emerging" and concludes that new enabling powers will allow the UK Government and Scottish Government to act quickly as this evidence emerges.

23. The Advertising for Public Health amendment 166 will amend the Bill to introduce a new defence for advertising offences in the Bill, to enable public authorities to enter into arrangements with businesses for public health campaigns. This defence only applies to advertisements whose purpose is to promote vaping products or nicotine products in general or a category of such products. The supplementary LCM concludes that this would ensure that Scottish public authorities could make their own decisions on whether or not to promote vapes or nicotine products.

24. The Technology in Devices amendments (130 and 132) will give powers to the Secretary of State (with consent of the Scottish Ministers where regulations contain devolved provision) to regulate technology in vaping products or tobacco related devices (such as heated tobacco devices). Such a power would, in

theory, enable government to mandate age-verification technology (e.g. where a vape is connected to a phone to verify the user's age before activation) if evidence supported its use.

25. The Intermediary Liability for Internet Service Providers amendment 165 would ensure that there are exceptions to offences where a completely passive internet service is provided – this applies to both devolved offences in clauses 113, 116 and 117 of the Bill and reserved offences in clause 118. The supplementary LCM concludes that this amendment does not change the intended policy, but provides clarity on where the liability rests and that these exceptions are required to put beyond doubt that such passive providers will not be found liable.
26. In relation to the regulation-making powers conferred on Scottish Ministers by the Bill or requiring the consent of Scottish Ministers, the supplementary LCM also makes various comments about the ongoing scrutiny role of the Scottish Parliament.
27. Where enabling powers in Part 5 ('Product and Information Requirements etc') and Part 6 ('Advertising and Sponsorship') of the Bill are amended, it is noted that these powers will require the consent of Scottish Ministers if regulations contain provision which would be within the legislative competence of the Scottish Parliament. Where there are proposals to exercise any of these powers in the future, the supplementary LCM commits the Scottish Government to work closely with the UK Government to ensure time for adequate scrutiny in the Scottish Parliament.
28. Insofar as new powers or amended powers are being conferred on the Scottish Ministers to make regulations under Part 2 of the Bill ('Sale and Distribution: Scotland'), it is further noted that regulations made under them will be subject to the affirmative procedure and that the Scottish Parliament will, therefore, have further opportunity to scrutinise the content of those regulations. Whilst equivalent provision could be made in Scottish Parliament legislation, the Scottish Government considers it prudent to pursue these amendments through the Bill, particularly as the Scottish Parliament has already given consent to other relevant provisions in the Bill to which these amendments relate. The supplementary LCM concludes that the proposed amendments relating to filters in particular will ensure that Scottish Ministers have the same flexibility to act within the same timescales as the other 3 nations and that the amendments will provide the ability to act quickly as the evidence emerges.

Today's meeting

29. At today's meeting, Members will have an opportunity to put questions to the Minister for Public Health and Women's Health on the supplementary LCM-S6-51b.

Clerks to the Committee
March 2026